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10/811,282	03/25/2004	David P. Fierek	1191.1101101	2176

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CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

EXAMINER

POLLICOFF, STEVEN B

ART UNIT	PAPER NUMBER
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3728

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/811,282	Applicant(s) FIEREK, DAVID P.	
	Examiner Steven B. Pollicoff	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-19, 21-33 and 35-41 is/are rejected.
- 7) ☒ Claim(s) 7, 20 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6,9,15-19,22 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Yonkman et al., (US Pat 4,865,282).

With respect to claims 1 and 6, Yonkman discloses a bucket tool organizer comprising a tool insert removably situated within the interior of a container having an upper end, an opening near the upper end, a closed lower end, and a side wall (Yonkman Fig 1), said tool insert including a holster (ref 20) substantially spanning the opening having a shape configured to tightly receive an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel, the holster having an upper end recessed from the upper end of the container (Fig 1 generally at ref 20). Yonkman also discloses fastening means for releasably securing the tool insert to the upper end of the container in a position recessed from the upper end of the container (ref 14 and 16).

With respect to claim 2, Yonkman discloses that the holster has a contoured shape corresponding in size and shape with the object (Fig 1 and 4).

With respect to claims 3 and 17, Yonkman discloses that the tool insert is situated at or near the centroid of the container (Fig 1).

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With respect to claims 4,5,18 and 19, Yonkman discloses that the bottom panel of said tool insert includes a necked-down region (Fig 4; see also column 3, lines 7-8) and comprises an eyelet/perforation (Fig 5).

With respect to claims 9 and 22, Yonkman discloses a set of clips attached to the tool insert (Fig 1 ref 14 and 16), said set of clips adapted to releasably secure the tool insert to the upper end of the container (Fig 1 generally).

With respect to claims 15 and 27, while Yonkman does not disclose that the insert holds a power tool, it does hold tools (i.e. here a paintbrush), and certainly capable of holding power tools.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkman et al., (US Pat 4,865,282) in view of Marshall (US Pat 6,138,827).

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With respect to claims 8 and 21, Yonkman does not disclose additional pockets on the tool insert attached at one or both of said first and second side panels. However, Marshall discloses pockets on a tool insert/crate attached at one or both of said first and second side panels (Fig 2 generally). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tool insert of Yonkman to include at least pockets on one of the side panels, as taught by Marshall, for the purpose of conveniently providing additional storage for tools.

Claims 10-14 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yonkman et al., (US Pat 4,865,282) in view of Lindsay (US Pat 4,993,551).

With respect to claims 10,11,23 and 24, Yonkman does not disclose a bucket mounted tool carrier adapted to contour about the container including a cylindrically shaped interior panel member configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container. However, Lindsay provides bucket mounted tool carrier draped about the interior and exterior of a container (Fig 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bucket organizer of Yonkman to include a bucket mounted tool carrier, as taught by Lindsay, for the purpose of providing a tool carrier for a wide variety of tools that are readily accessible (Lindsay column 1, lines 9-24).

With respect to claims 12,13,25 and 26, Lindsay discloses that the exterior panel member includes a slotted section (Fig 1 ref 35) and the interior panel member includes a pleated section (ref 26).

With respect to claim 14, Yonkman discloses that the tool insert is fixedly secured to the bucket mounted tool carrier by hooks (Fig 1 ref 14 and 16) once the carrier of Lindsay is draped over the bucket organizer of Yonkman.

Claims 28-33 and 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay (US Pat 4,993,551) in view of Yonkman et al., (US Pat 4,865,282).

With respect to claims 28,32,33,36,40 and 41, Lindsay discloses a bucket tool organizer, comprising: a bucket mounted tool carrier adapted to contour about a container having an upper end, an opening near the upper end, a closed lower end, and a side wall, said bucket mounted tool carrier including a cylindrically shaped interior panel member configured to drape over said open end and extend into the interior of the container, and an exterior panel member configured to drape over the exterior of the container (Lindsay Fig 1 generally);. Lindsay does not disclose a tool insert removably situated within the interior of the container, said tool insert including a contoured holster having a shape configured to tightly receive/fixedly secure an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel; and fastening means/clips for releasably securing the tool insert (Yonkman Fig 1 ref 14 and 16) to the upper end of the container and to the bucket mounted tool carrier. However, Yonkman discloses a tool insert removably situated

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within the interior of the container, said tool insert including a contoured holster having a shape configured to tightly receive/fixedly secure an object therein, the shape being bounded by first and second side panels, first and second end panels, and a bottom panel (Yonkman Fig 1 and 2 generally); and fastening means/clips for releasably securing the tool insert (Yonkman Fig 1 ref 14 and 16) to the upper end of the container and to the bucket mounted tool carrier. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bucket tool organizer of Lindsay to include a tool insert, as taught by Yonkman, for the purpose of keeping auxillary equipment at hand (i.e. additional tools) and ready for use (Yonkman column 1, lines 10-12).

With respect to claim 29, Yonkman discloses that the tool insert is situated at or near the centroid of the container (Fig 1).

With respect to claims 30 and 31, Yonkman discloses that the bottom panel of said tool insert includes a necked-down region (Fig 4; see also column 3, lines 7-8) and comprises an eyelet/perforation (Fig 5).

With respect to claims 37 and 38, Lindsay discloses that the exterior panel member includes a slotted section (Fig 1 ref 35) and the interior panel member includes a pleated section (ref 26).

With respect to claim 39, while Lindsay as modified does not disclose that the insert holds a power tool, it does hold tools (i.e. here a paintbrush), and certainly capable of holding power tools.

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Claims 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Lindsay (US Pat 4,993,551) in view of Yonkman et al., (US Pat 4,865,282) as applied to claim 28 above and further in view of Marshall (US Pat 6,138,827).

With respect to claim 35, Lindsay as modified does not disclose additional pockets on the tool insert attached at one or both of said first and second side panels. However, Marshall discloses pockets on a tool insert/crate attached at one or both of said first and second side panels (Fig 2 generally). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the tool insert of Lindsay as modified to include at least pockets on one of the side panels, as taught by Marshall, for the purpose of conveniently providing additional storage for tools.

Allowable Subject Matter

Claims 7,20 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Pollicoff whose telephone number is (571)272-7818. The examiner can normally be reached on M-F: 7:30A.M.-4:00P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Mickey Yu
Supervisory Patent Examiner
Group 3700